

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

April 24, 2001

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Mallano, J. and S. Beaux,
Deputy Clerk.

Each of the following:

B135633 People v. Pagan & Escalante
B140321 People v. Curry
B140338 People v. Benitez
B140421 People v. Sandoval & Nerio
B140785 People v. Mitchell
B140807 People v. Barba & Macias
B140857 Yandell v. Weller
B141324 People v. Conway
B142125 People v. Brown
B142290 D.C.F.S. v. Gerrie S.
B142436 People v. Rudy D.
B142491 D.C.F.S. v. Colleen R.
B142672 People v. Mailander
B142726/B143454 D.C.F.S. v. Kathy K.
B143179 People v. Edwards
B143411 People v. Christian M.
B144208 D.C.F.S. v. Nellie A.
B144218 Mitchell v. DMV
B144441 D.C.F.S. v. William S.
B144890 D.C.F.S. v. Ana A.
B147528 Monica C. v. S.C.L.A. (D.C.F.S.)
B147790 Rita F. v. S.C.L.A. (D.C.F.S.)

Argument waived, cause submitted.

DIVISION ONE (Continued)

B140331 People
 v.
 Becerra, Jr.

Merits:
Argued by Catherine T. Okawa, deputy attorney general, for respondent.
No appearance for appellant. Cause submitted.

B142755 People
 v.
 Banks

Merits:
Argued by John Daley for appellant and by Michael Katz, deputy attorney general, for respondent. Cause submitted.

B139162 People
 v.
 Brice

Merits:
Argued by Mary Bernstein for appellant and by Rori M. Ridley, deputy attorney general, for respondent. Cause submitted.

B141492 Namkoong et al.
 v.
 Magnolia Gardens Convalescent Hospital et al.

Merits:
Argued by Stephen J. Kelley for appellants and by Bruce Adelstein for respondents. Cause submitted.

DIVISION ONE (Continued)

B142794 People
 v.
 Mixco

Merits:

Argued by David B. Harrison for appellant and by Zee Rodriguez, deputy attorney general, for respondent. Cause submitted.

B141994 People
 v.
 Garcia

Merits:

Argued by Maxine Weksler for appellant and by Jaime L. Fuster, deputy attorney general, for respondent. Cause submitted.

B136369 J. T. McKinney Company, Inc., et al.
B138166 v.
 John Deere Insurance Co.

Merits:

Argued by Stephen A. Rosa for appellant/respondent John Deere Insurance and by Gary Hamblet for respondents/appellants J.T. McKinney Company et al. Cause submitted.

Spencer, P.J. leaves the bench.

B145378 People
 v.
 Lares

Merits:

Argued by Phyllis C. Asayama, deputy district attorney, for appellant and by Harold Greenberg for respondent. Cause submitted.

Court adjourned.

April 24, 2001-Continued

DIVISION ONE (Continued)

B139601 People (Not for Publication)
B142534 v.
Talamantes

The judgment is affirmed. The petition for writ of habeas corpus is denied.

Mallano, J.

We concur: Spencer, P.J.
Ortega, J.

B139250 People (Not for Publication)
B145680 v.
Esquero

The judgment is affirmed. The petition for writ of habeas corpus is denied.

Mallano, J.

We concur: Spencer, P.J.
Ortega, J.

B139676 People (Not for Publication)
v.
Percy

The finding that defendant suffered a prior felony conviction within the meaning of the three strikes law is reversed and the sentence is vacated. The matter is remanded for further proceedings on the issue of whether defendant suffered the alleged prior conviction and for resentencing. In all other respects, the judgment is affirmed.

Mallano, J.

I concur: Spencer, P.J.
I concur in judgment only: Vogel (Miriam A.), J.

April 24, 2001-Continued

DIVISION ONE (Continued)

B142436 People (Not for Publication)
v.
Rudy D.

The order of wardship is modified to reduce the minor's maximum period of physical confinement to six years by staying, pursuant to Penal Code section 654, the one-year and four-month period of physical confinement imposed for burglary. As modified, the order of wardship is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Ortega, J.

DIVISION TWO

B135322 People (Not for Publication)
v.
Dennis J. Barroso et al.

The judgment is modified to stay the term imposed for the robbery in count 7 as to Barroso and Perez. The corrected abstract of judgment shall be sent to the Department of Corrections. In all other respects the judgment is affirmed.

Nott, Acting P.J.

We concur: Cooper, J.
Todd, J.

DIVISION TWO (Continued)

B143140 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Sylvia A.
In re Jeffrey V. et al., Persons Coming Under the Juvenile Court Law

The order under review is reversed. The matter is remanded for the juvenile court to schedule and hold a hearing under section 388.

Nott, J.

We concur: Boren, P.J.
 Todd, J.

B140936 In re David Gooden on Habeas Corpus (Not for Publication)

The petition is denied.

Nott, Acting P.J.

We concur: Cooper, J.
Todd, J.

B134467 People (Not for Publication)
v.
David Gooden

The judgment is affirmed.

Nott, Acting P.J.

We concur: Cooper, J.
 Todd, J.

DIVISION FOUR

B138295 Liberty Mutual Fire Insurance Company (Certified for Publication)
v.
McKenzie

The summary judgment entered on December 7, 1999, is reversed. The sanctions order entered on December 9, 1997, is affirmed. The parties to bear their own costs on appeal.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B141403 Simons et al. (Certified for Publication)
v.
Steverson et al.

The order granting defendants' motion to quash is reversed. Plaintiffs to recover costs on appeal.

Curry, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

B140955 People (Not for Publication)
v.
Milton A.

For the foregoing reasons, the matter is remanded for calculation of appellant's predispositional credits. In all other respects, the judgment is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.
Curry, J.

April 24, 2001-Continued

DIVISION FOUR (Continued)

B140693 People (Not for Publication)
v.
Montes

The judgment is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

B143874 People (Not for Publication)
v.
Ruben G.

The judgment is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

DIVISION FIVE

[illegible]

The judgment is affirmed.

Willhite, J. (Assigned)

I concur: Turner, P.J.
I dissent: Grignon, J. (Opinion)

DIVISION FIVE (Continued)

B143259 Valerio Molina (Not for Publication)
 v.
 County of Los Angeles

The judgment is affirmed. Respondent(s) to recover costs.

Willhite, J. (Assigned)

We concur: Grignon, Acting P.J.
 Armstrong, J.

B147901 Julio Gallegos (Not for Publication)
 v.
 Superior Court, Los Angeles County
 (People of the State of California, r.p.i.)

A peremptory writ shall issue directing respondent court to (a) vacate its orders of November 27, 2000 and December 26, 2000, denying petitioner's motion for expungement under section 1772, and (b) after conducting a new hearing on the motion, exercise its discretion to grant or deny the motion on the merits.

Armstrong, J.

We concur: Grignon, Acting P.J.
 Willhite, J. (Assigned)

DIVISION SIX

B142970 Curci-Turner Co. (Not for Publication)
 v.
 Village Properties

The judgment is affirmed. Costs are awarded to respondents.

Coffee, J.

We concur: Yegan, Acting P.J.
 Perren, J.

DIVISION SIX (Continued)

B137544 Cortez
v.
Rockwell International Corporation
Reycrest Roofing & Waterproofing

Petition for rehearing is denied.

[illegible]

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

[illegible]

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

April 24, 2001-Continued

DIVISION SIX (Continued)

B135076 People (Not for Publication)
v.
Vazquez

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

[illegible]

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

B143073 People (Not for Publication)
v.
Sanches

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

April 24, 2001-Continued

DIVISION SIX (Continued)

B141571 People (Not for Publication)
v.
Lopez

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
 Yegan, J.

B143002 People (Not for Publication)
v.
Fiederer

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
Coffee, J

B138199 People (Not for Publication)
v.
Valladares, et al.

The judgment is modified to reflect 552 days of presentence custody credit for Valladares. The trial court shall amend the abstract of judgment accordingly and forward the amended abstract of judgment to the Department of Corrections. The judgment is otherwise affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

April 24, 2001-Continued

DIVISION SIX (Continued)

B137748 People (Not for Publication)
v.
Boomhower

The judgment on the indecent exposure count is reversed. The judgment of conviction for battery is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

B141759 Doherty (Not for Publication)
v.
Alliance Manufacturing Software International, Inc.

Although we agree with respondent that this appeal has no merit, we decline the request to award sanctions on appeal. Respondent has not followed the proper procedure for requesting sanctions. The judgment is affirmed. Costs to respondents.

Yegan, J.

We concur: Gilbert, P.J.
Perren, J.